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Argentina: Trends & Developments

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Trends and Developments

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Bomchil

Bomchil is considered one of the leading full-service law firms in Argentina. Since its foundation in 1923, it has participated in some of the country's most complex and significant transactions and disputes. The law firm's fintech and crypto practice is led by specialists in banking and corporate law who work together with a multidisciplinary team. Bomchil has advised regulated and non-regulated companies and individuals in all aspects of fintech law and regulations in Argentina, including P2P lending; debit,

credit and prepaid cards; e-payment platforms; factoring platforms; crowdfunding; issuance, exchange and custody of cryptocurrencies and securities tokens; and the adaptation of KYC procedures to digital onboarding. The firm also has broad experience in assisting clients in the field of payment and transaction services industries. Bomchil's clients include Huawei, American Express, Alipay, Bloomberg, Circle, Mercado Libre and Growie (a development of Fortune International Group and Globant).

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Overview

As 2024 unfolds, Argentina's fintech sector emerges as a resilient, innovative force in the context of local and global economic challenges. Despite rampant domestic inflation, and global geopolitical turmoil, the sector demonstrated notable growth throughout 2023, evidencing its evolving maturity.

Argentina's Fintech ecosystem has experienced robust growth and is now home to about 343 local firms. According to the latest Finnovista report, the sector's distribution highlights a balanced concentration in key verticals: both lending, and payments and remittances lead with an equal share of 16.9% each. Close behind are wealth management and enterprise financial management, capturing 14.9% and 14.6% of the market, respectively. Notably, enterprise technologies for financial institutions and insurtech also mark their presence with 12.0% and 7.3%, while the remaining verticals together make up 17.5% of the ecosystem.

As economic conditions in Argentina remain challenging, demand for fintech services that safeguard wealth against inflation and offer yield-generating investment opportunities has rocketed in 2023. With high inflation eroding the value of cash holdings, Argentine fintechs have presented an appealing option for consumers to protect their income. These digital platforms allow Argentines to earn interest on funds that might otherwise languish in zero-yield savings accounts by facilitating easy access to investment accounts via user-friendly phone applications.

According to the Argentine Central Bank (*Banco Central de la República Argentina* or BCRA), investments in Mutual Funds through accounts provided by fintech companies soared to ARS438.7 billion in July. That is, the funds that

users chose to invest through Fintech grew by 183% in just six months. This indicates a real increase of 87.5%, once the inflation effect is discounted. Furthermore, the country's investment landscape is expanding, evidenced by the opening of 12.8 million investment accounts. Notably, four million of these accounts were initiated in just the first seven months of 2023, highlighting a rapid acceleration in the accessibility and popularity of investment options facilitated by the fintech industry. This expansion underscores the sector's pivotal role in driving financial inclusion and the digital transformation of the nation.

Highlighting the strengths of the Argentine fintech ecosystem, several fintechs in Argentina have integrated open banking into their operations, showcasing the industry's robustness and high level of interoperability, with over 60% of transactions being processed to or from a fintech account. Moreover, four out of ten Argentine fintech start-ups have expanded their presence beyond national borders. This positions the country not merely as a hub for the global distribution of services and products, but also as a cradle for talent, with numerous Argentine teams developing solutions tailored for international markets.

Last year, tensions arose between banks and fintech companies due to changes in the interoperable transfer system linking bank and virtual accounts. The conflict is rooted not only in transfer mechanisms but also in competition for customer deposits and savings. As mentioned, fintech companies have been challenging banks by offering interest-bearing accounts, which are more advantageous than traditional non-interest-bearing savings accounts.

Additionally, there is a dispute over the interoperability of QR codes, crucial for fintech and

mobile payment expansion. Mercado Pago, currently leading in this area, faces pressure to open its system to other providers to foster competition. This scenario reflects the broader challenges in Argentina's financial sector, where balancing innovation, competition, and regulation is a significant concern for both banks and fintech firms.

The past year also brought a shift in the political stance in Argentina that may reshape the future of the country's fintech sector. Under President Javier Milei's market-friendly administration, the fintech environment in Argentina is expected to be bolstered by policies favoring deregulation and economic freedom. Although Milei has not disclosed specific economic policies, leaders in the fintech sector are showing a sense of optimism.

2024 is poised to be a period of exploration and innovation for the industry, with a focus on embedded finance, blockchain applications and AI-enhanced credit scoring models. Supported by a conducive regulatory environment and one of the highest fintech adoption rates in Latin America, Argentina is well-positioned for sustained digital economic transformation.

In the following sections, we will cover the regulatory measures taken by the Argentinian authorities in 2023 and evaluate foreseeable measures that may be implemented shortly. Additionally, we will attempt to decode how the Argentinian fintech industry may evolve through 2024.

Payment Vertical

The widespread use of virtual wallets has significantly fuelled the growth of fintechs in Argentina in recent years. Currently, 42% of the member companies affiliated with the Argentine Fintech Chamber are involved in the Digital Payments Vertical. Per the data from the BCRA, as of mid-

2023, 61% of individuals aged 15 and above in Argentina possessed a payment account linked to a fintech company, with 4.4% exclusively using fintech services and 56.6% utilising them in conjunction with a traditional bank account.

The rapid expansion of fintech firms has heightened tensions with traditional banks, which may perceive these new entrants as a threat to their established dominance.

DEBIN to "Pull" Transfers

The shift from DEBIN to pull transfers in the National Payment System, as mandated by the BCRA, marks a significant point of contention between fintech companies and traditional banks. DEBIN is a system designed to facilitate the seamless integration of bank accounts with virtual wallets, enabling users to instantly transfer funds directly from their banks to their wallets without the need to exit the app or initiate a traditional bank transfer. "Pull" transfers are a mechanism for immediate fund transfer, enabling a recipient to withdraw funds directly from an account. This method contrasts with "push" transfers, where the transaction is initiated by the sender, who then pushes the funds to the recipient. The "pull" method necessitates a one-time authorisation, proving particularly advantageous for accounts under the same ownership. The pull transfers are promoted by the BCRA to prevent fraud on the basis that they entail better security standards; however, their implementation requires users to set up an "express authorisation" before they can perform initial transfers between virtual and bank accounts. Mercado Pago has requested and obtained an extension to the implementation deadline, arguing that pull transfers have technical glitches and will impose needless friction on the user experience.

Payments With QR Codes

The widespread use of mobile phones for transactions has become standard for millions of Argentines. A key factor in the growth of mobile payment services has been payment through QR codes, which has been instrumental for the development of fintech platforms, particularly Mercado Pago. In September 2023, the BCRA mandated the interoperability of QR codes, which means that each and every QR code can be read by any device or virtual wallet, regardless of who is the provider of the relevant code. In practice, this is already working for payment transactions with money deposited in digital wallet accounts or with debit cards but is not working with credit cards. However, due to an extension requested by certain players, it became operational as of 1 February 2024.

Digital Asset Operations

During 2022, the BCRA prohibited banks from offering digital assets to customers. In May 2023, the BCRA expanded this prohibition to payment service providers (PSPs), forbidding them from carrying out or facilitating to their clients the execution of transactions with digital assets (eg, crypto-assets), which are not authorised by a competent national regulatory authority or by the BCRA. Consequently, both PSPs and banks are now restricted from engaging in digital asset operations.

The BCRA clarified that “facilitating” includes services like automated purchasing interfaces, requiring users to independently execute transactions. This measure seeks to protect financial users and the national payment system from the risks digital asset transactions pose.

PSPCP – Return on Deposit Account Balances

As mentioned in the introduction, Argentine fintechs have presented an appealing option for consumers to protect their income by allowing them to earn interest on funds that might otherwise languish in zero-yield savings bank account. However, during 2023, the BCRA required PSPs to transfer the full returns earned on balances held in deposit accounts back to their customers. That has inevitably hindered one of the profitable businesses dominated by fintechs. According to the BCRA, this provision also applies to funds in wallets left uninvested at the customers’ discretion. The disclosed balance in such accounts, facilitated by PSPs, amounted to ARS121 billion at the time of the announcement. Notably, this communication intensifies the limitations on the investment options available to PSPs for managing client deposits.

Payment of Salaries on PSP Accounts

According to Emergency Decree No 70/2023, employees have the flexibility to receive their wages in various forms: cash, check, through official savings institutions, or via entities deemed “suitable, safe, interoperable, and competitive” by the payment system’s regulatory authority. This change enables employees to opt for their remuneration collection method, including virtual accounts provided by PSPs, contingent upon BCRA’s endorsement of their security, interoperability, and competitiveness. This development represents a significant opportunity for fintech firms to expand their operations.

Open Banking: A New Opportunity for Banks and Fintechs

Embedded finance and open banking are some of the fastest-growing trends worldwide and Argentina is no stranger to this movement. The concept involves the secure exchange of

banking data between financial institutions and interoperability via application programming interfaces (APIs). Theoretically, this free flow of information makes it possible to provide a better service to users.

Close to half (47.5%) of the fintechs in the country have already implemented certain open finance traits and APIs in their processes. Moreover, according to a survey by the Argentine Fintech Chamber, 70% of technology-based financial services companies in the country are open to implementing open banking or embedded finance.

The potential of open banking presents a world of possibilities, especially in a market like Argentina's that is ripe for innovation and development in financial services. However, the implementation of open finance can also entail various risks for consumers, particularly regarding the management and protection of complex data. The problem does not lie in the data itself but in the increased data sharing. A mismanagement of such complex data could result in cybersecurity threats and data breaches. In order to deter operational risks from taking place in open finance, clear guidelines and standards for the protection of personal and non-personal data should be established.

In this respect, since September 2022, the Agency for Access to Public Information has been working on a legislative project on personal data protection. In June 2023, a draft bill was proposed that, if approved, would significantly modify the regime applicable in Argentina regarding personal data protection and privacy, with greater obligations for companies, new rights for data owners and a more burdensome sanctioning regime.

Lastly, in September 2023, a public agency established a programme for the transparency and protection of personal data in the use of artificial intelligence. Although the programme contains initial and general objectives instead of specific and operative provisions, it may be the starting point for the development of regulations in this area.

Crypto-assets

The inflationary situation and currency devaluation, combined with the foreign exchange restrictions on acquiring foreign currency, have led many Argentine people to resort to crypto-assets, particularly stablecoins.

There is no single comprehensive statute governing crypto-assets in Argentina, but various laws and regulations on the subject have been issued by different public agencies, such as the Financial Information Unit or the Federal Tax Authority. Despite certain non-binding official statements issued by the CNV and the BCRA, indicating certain risks associated with transactions involving crypto-assets, there is no express prohibition on holding, purchasing, exchanging or providing exchange services and custody of crypto-assets. Consequently, it is currently permitted.

Recently, on 15 March 2024, the Argentine Congress passed National Law No 27,739, which establishes reforms on the Anti-Money Laundering regulatory framework (the "AML Reform"). Among other developments, the AML Reform creates the legal classification of Virtual Asset Service Providers (VASPs) and mandates the CNV to create a mandatory public registry of VASPs.

Under the AML Reform “virtual assets” are defined as any “digital representation of value that can be traded and/or digitally transferred and used for payments or investments, not including legal tender or fiat currency”.

Additionally, it defines “VASP” as “any natural or legal person who, as a business, performs one or more of the following activities or operations on behalf of another individual or legal person: (i) exchange between virtual assets and legal tender (fiat currencies); (ii) exchange between one or more forms of virtual assets; (iii) transfer of virtual assets; (iv) custody and/or administration of virtual assets or instruments enabling control over them; and (v) participation and provision of financial services related to the offering of an issuer and/or sale of a virtual asset.”

On 25 March 2024, the CNV issued General Resolution No 994, which created the Registry of VASPs. Per the Resolution, foreign legal entities will be deemed to carry out VASPs’ activities in Argentina when they are conducted under any of the following modalities: (i) use any “.ar” domain to carry out their activities or operations; (ii) have commercial agreements with third parties or subsidiaries or related companies that allow them to locally receive funds or assets from Argentine residents for the performance of the activities or operations (or any similar activity known as ramp services); (iii) have a clear orientation towards residents in the Argentine Republic; (iv) carry out advertising clearly directed to residents in the Argentine Republic; and (v) their volume of business in the Argentine Republic exceeds 20% of their total business volume.

Freedom of Agreement – Amendments to the Argentine Civil and Commercial Code

Emergency Decree No 70/2023 has modified the Argentine Civil and Commercial Code by:

(i) eliminating the option for debtors to discharge in-kind obligations with the equivalent in legal tender, and (ii) curtailing judicial discretion to modify agreed-upon payment methods or currencies. This amendment suggests that contracts can now explicitly include cryptocurrencies, binding debtors to fulfil agreements as specified, even limiting judicial power to alter payment forms. This change aims to resolve discrepancies arising when debts in non-legal currencies were converted to pesos, addressing issues of varying exchange rates and judicial inconsistencies in Argentina.

Futures Contracts Tied to Bitcoin

Through its recently created “Innovation and Financial Inclusion Hub”, the CNV issued a regulation of futures contracts tied to the Bitcoin Matba Rofex Index. This permits trading derivatives tied to Bitcoin and settling them in Argentine pesos, without needing physical delivery of the underlying asset. Qualified investors can now access Bitcoin price variations through derivative products traded on regulated market infrastructures. The Matba Rofex Bitcoin Index will aggregate Bitcoin price data sourced from diverse providers. These providers facilitate the trading of the BTC/ARS pair and enable the transfer of Argentine pesos. As a prerequisite, these providers must hold a valid contract with a PSP registered with the BCRA.

Tokenisation

The advancement of technology has enabled the emergence of so-called tokenisation of illiquid real-world assets. Tokens are digital representations of physical or digital objects. There were two legislative projects aimed at regulating tokenisation; however, they are no longer under active consideration in Parliament. These foresaw the creation of a regulatory sandbox and

aimed to regulate the uses of different types of tokens.

Even though the referred legislative projects are no longer under consideration, CNV's Innovation Hub aims to establish a regulatory sandbox in 2024. Moreover, in March 2023, the CNV published a proposal for a private offering regime for marketable securities.

In November 2023, the Argentine Fintech Chamber published a comprehensive study on the tokenisation of real assets, highlighting their capacity to democratise economic access, and enhance the liquidity and transparency of the market. According to the report, it is projected that by the end of the decade, tokenisation will represent a USD16 trillion market and 10% of global GDP will operate on blockchains. The report stated that, even without specific legislation, Argentina may adapt its existing legal framework to support this innovation. It concludes by highlighting the importance of a balanced and proactive regulatory framework to boost tokenisation and its economic impact.

Security tokens, which serve as or represent tradable securities, may fall under the classification of securities according to Argentine regulations. Consequently, they could require prior authorisation from the CNV before issuance in case of a public offering.

Participation in a public offering of securities without the necessary approval from the CNV exposes individuals to administrative penalties. Given the substantial risks linked to the issuance and promotion of tokens in Argentina, it becomes imperative to develop a regulatory framework that specifically addresses the distinctive benefits and requirements of tokenisation.

Anti-money Laundering Reform

Since 2014, reporting parties in Argentina have been required to report to the Financial Information Unit (*Unidad de Información Financiera or UIF*) all transactions involving digital currencies, along with the assigned risk profile of each transaction, on a monthly basis. In 2021, Congress concluded an agreement to restructure the sovereign debt with the IMF, under which the Argentine government undertook to “discourage the use of cryptocurrencies to avoid money laundering and informality”.

As previously discussed, Congress has recently enacted significant reforms to the Anti-Money Laundering (AML) regulatory framework. These updates notably include the definition of “virtual asset” and “VASP”, that entail specific licensing and registration requirements. From an AML standpoint, it is important to highlight that on 25 March 2024, the Financial Information Unit (*Unidad de Información Financiera or UIF*) issued Resolution No 49/2024. This resolution categorises VASPs registered in the CNV Registry as “Obligated Subjects”. Consequently, it mandates their registration with the UIF, to adhere to KYC obligations, and to report any suspicious transactions conducted by their clients. These requirements are part of a broader set of anti-money laundering obligations governed by the newly reformed framework.

Equity-Based Crowdfunding

This is an innovative type of crowdfunding where investors receive equity participation in the entrepreneur's vehicle entity in consideration for their monetary contribution. In November 2022, the CNV modified the regulatory regime of crowdfunding platforms after considering suggestions from the general public and interested sectors. The modifications included: an increase in the minimum net worth required for crowd-

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funding platforms and the maximum amount of issuances accumulated per project over 12 months, and an increase in the percentages in which qualified and non-qualified investors may participate in each crowdfunding project. Consequently, non-qualified investors cannot participate in more than 10% of the subscription of the project, or in an amount greater than 150,000 UVA (purchasing value units), whichever is lower. In contrast, the investment limit for qualified investors is equivalent to 20% of the project.

Conclusion

As we move through 2024, the fintech industry in Argentina remains one of the most dynamic and disruptive sectors of the economy. This year is shaping up to be a pivotal period for the industry, marked by significant strides in embedded finance, advanced blockchain applications and the integration of AI in credit scoring models. Bolstered by one of the highest rates of fintech adoption in Latin America, Argentina is on a clear path towards a digital economic revolution.

The anticipated implementation of an open banking system in Argentina, mirroring trends observed in other Latin American nations, is a particularly noteworthy development. This transition demands a nuanced approach to managing information flow, ensuring robust data protection, and maintaining stringent cybersecurity measures.

The Argentine fintech sector is emerging into 2024 with robust and promising prospects. Driven by a commitment to expanding financial inclusion and delivering customer-centric solutions, the Argentine fintech ecosystem is well-positioned to continue its transformative journey. This not only cements Argentina's status as a regional leader in fintech but also equips the nation to adeptly navigate the challenges and capitalise on the opportunities presented by the ever-evolving digital finance landscape.

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